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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Amy Demboski  
Department of Commerce Community and Economic Development

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** February 13, 2020

**RE:** Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board regulations re: tracking and testing of marijuana (3 AAC 306.435 - 3 AAC 306.455; 3 AAC 306.470(a)(1)(B); 3 AAC 306.565(c); 3 AAC 306.660; 3 AAC 306.990(b)(3))

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Attorney General File:	2019200398
Regulation Filed:	2/12/2020
Effective Date:	3/13/2020
Print:	233, April 2020

cc with enclosures: Harry Hale, Department of Law  
Judy Herndon, LexisNexis  
Jane Sawyer, Regulations Specialist

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF MARIJUANA CONTROL BOARD

The attached seven pages of regulations, dealing with marijuana tracking and testing, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its January 24, 2020, meeting, under the authority of AS 17.38.121 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

On the record, in considering public comments, the Marijuana Control Board paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.


Date: 1-31-2020

  
Glen Klinkhart, Interim Director

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

Febr. 12<sup>th</sup>, 2020 at 3:38 P.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

  
Lieutenant Governor

Effective: March 13, 2020.

Register: 233, April 2020.

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3 AAC 306.435(a) is amended to read:

(a) A marijuana cultivation facility shall use a marijuana inventory tracking system in compliance with 3 AAC 306.730 to ensure all marijuana propagated, grown, or cultivated on the marijuana cultivation facility's premises is identified and tracked from the time the marijuana is propagated through transfer to another licensed marijuana establishment or destruction. The marijuana cultivation facility shall assign a tracking number to each plant over eight inches tall and each package of marijuana to be transferred to another facility. A package of marijuana may not exceed 10 pounds. The marijuana cultivation facility shall also assign a plant batch name or number to each batch of clones or cuttings. A batch may not consist of more than 50 clones or cuttings. [WHEN HARVESTED, BUD AND FLOWERS, CLONES OR CUTTINGS, OR LEAVES AND TRIM MAY BE COMBINED IN HARVEST BATCHES OF DISTINCT STRAINS, NOT EXCEEDING FIVE POUNDS. EACH HARVEST BATCH MUST BE GIVEN AN INVENTORY TRACKING NUMBER. CLONES OR CUTTINGS MUST BE LIMITED TO 50 OR FEWER PLANTS AND IDENTIFIED BY A BATCH TRACKING NUMBER.]

3 AAC 306.435(b) is amended to read:

(b) A marijuana cultivation facility shall record each sale and transport of any plants or seeds and each package [BATCH] in its marijuana inventory tracking system and shall generate a valid transport manifest to accompany any transported plants and seeds and each transported package [BATCH].

(Eff. 2/21/2016, Register 217; am 3 / 13 / 2020, Register 233)

Register 233, April 2020 COMMERCE, COMMUNITY, AND EC. DEV.

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306.445 is amended by adding new subsections to read:

(b) A marijuana cultivation facility shall segregate harvested marijuana into harvest batches.

(c) Once a harvest batch has been uniformly dried and cured, the marijuana cultivation facility shall divide the harvest batch into packages not exceeding 10 pounds each. A sample of each harvest batch package must be submitted to a marijuana testing facility for required testing under 3 AAC 306.455.

(d) Once a harvest batch sample has passed all required testing, a marijuana cultivation facility may repackage marijuana from that harvest batch package for sale or transfer. (Eff.

2/21/2016, Register 217; am 3 / 13 / 2020, Register 233)

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306.455 is amended to read:

**3 AAC 306.455. Required laboratory testing.** (a) A marijuana cultivation facility shall provide samples from [OF] each harvest batch package of marijuana produced at the facility to a marijuana testing facility and may not sell or transport any marijuana, except as

provided for in (c) of this section, until all laboratory testing required under 3 AAC 306.645 has been completed.

(b) To comply with (a) of this section, a marijuana cultivation facility shall

(1) collect a representative [, HOMOGENOUS] sample for testing from each harvest batch **package** that has been uniformly dried and cured, in an amount as set out in the following table:

Harvest Batch <b>Package</b> Size (pounds)	<b><u>Number of 1g sub-samples to make up required sample</u></b> [QUANTITY OF SAMPLES (1G EACH)]
1	4
2	4
3	5
4	6
5	8
6	10
7	11
8	13
9	14
10	16

(2) designate an individual responsible for collecting each sample; **that**  
**individual shall** [IS REPRESENTATIVE OF THE HARVEST;]

(A) prepare a signed statement showing that each sample is representative  
of the harvest **batch package**;

(B) provide the signed statement to the marijuana testing facility; and

(C) maintain a copy as a business record under 3 AAC 306.755; and

(3) transport the samples to the marijuana testing facility's licensed premises in

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compliance with 3 AAC 306.750.

(c) A marijuana cultivation facility shall segregate the harvest [ENTIRE] batch package from which the testing sample was [SAMPLES WERE] selected until the marijuana testing facility reports the results from its tests. During this period of segregation, the marijuana cultivation facility that provided the sample [SAMPLES] shall maintain the harvest batch package in a secure, cool, and dry location to prevent the marijuana from becoming contaminated or losing its efficacy. The marijuana cultivation facility that provided the sample [SAMPLES] may not sell or transport any marijuana from the segregated harvest batch package until the marijuana testing facility has completed its testing, and provided those results, in writing, to the marijuana cultivation facility that provided the sample, except that a marijuana cultivation facility may transfer untested marijuana to a licensed marijuana concentrate or marijuana product manufacturing facility to be used to make carbon dioxide- or solvent-based extract. After processing, the carbon dioxide- or solvent-based extract must pass all required tests [SAMPLES]. The marijuana cultivation facility shall maintain the testing results as part of its business books and records. (Eff. 2/21/2016, Register 217; am 11/8/2018, Register 228; am 3 / 13 / 2020, Register 233 )

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		

3 AAC 306.470(a)(1)(B) is amended to read:

(B) in a wholesale package not exceeding 10 [FIVE] pounds for

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repackaging by the retail marijuana store; or

(Eff. 2/21/2016, Register 217; am 3 / 13 / 2020, Register 233)

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306.565(c) is amended to read:

(c) Except as prohibited in 3 AAC 306.555(b)(2), a licensed marijuana product manufacturing facility may transfer marijuana concentrates in wholesale packages not to exceed 10 [FIVE] pounds to another licensed marijuana product manufacturing facility or a licensed retail marijuana store. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 3 / 13 / 2020, Register 233)

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306.660 is repealed and readopted to read:

**3 AAC 306.660. Failed materials; retests.** (a) If a sample tested by a marijuana testing facility does not pass the required tests based on the standards set out in 3 AAC 306.645, including a visual foreign matter inspection, the marijuana establishment that provided the sample shall dispose of the harvest batch package or production lot from which the sample was taken, as required under 3 AAC 306.740.

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(b) If a marijuana sample fails a required test, any marijuana plant trim, leaf, and other usable material from the same harvest batch package fail the required test. The board or director may approve a written request, on a form prescribed by the board, to allow a batch of marijuana that fails a required test to be used to make carbon dioxide- or solvent-based extract. After processing, the carbon dioxide- or solvent-based extract must pass all required tests.

(c) If a marijuana cultivation facility or a marijuana product manufacturing facility submits a written request, on a form prescribed by the board, for a retest of marijuana or a marijuana product that failed a required test, the board or director may authorize a retest to validate the test results. The marijuana cultivation facility or a marijuana product manufacturing facility shall pay all costs of a retest.

(d) When requested by a marijuana product manufacturing facility, the director may authorize a retest of a marijuana concentrate that passed a required test when the licensee wishes to reprocess a marijuana product to further reduce residual solvent levels. The marijuana product manufacturing facility shall pay all costs of a retest. (Eff. 2/21/2016, Register 217; am 7/5/2017, Register 223; am 10/20/2018, Register 228; am 3 / 13 / 2020, Register 233)

**Authority:** AS 17.38.010                      AS 17.38.150                      AS 17.38.200  
AS 17.38.070                      AS 17.38.190                      AS 17.38.900  
AS 17.38.121

3 AAC 306.990(b)(3) is amended to read:

(3) "batch" or "harvest batch" means a specifically identified quantity of **bud and flower**, plant trim, leaf, and other usable product from marijuana plants, that are uniform in



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strain, cultivated in one place and under the same conditions, using the same medium and agricultural chemicals including pesticides and fungicides, and harvested at the same time; (Eff. 2/24/2015, Register 213; am 2/21/2016, Register 217; am 10/11/2017, Register 224; am 8/11/2018, Register 227; am 10/20/2018, Register 228; am 4/11/2019, Register 230; am 5/9/2019, Register 230; am 3 /13 /~~2020~~, Register ~~233~~)

<b>Authority:</b>	AS 17.38.010	AS 17.38.121	AS 17.38.200
	AS 17.38.040	AS 17.38.150	AS 17.38.900
	AS 17.38.070	AS 17.38.190	